

Since her appointment to the bench, Justice Robinson has proven that she respects the difference between being an advocate and a judge. Over the last 10 years, she has participated in nearly 1,800 decisions. And she has done so without a hint of bias.

One of her former colleagues on the Vermont Supreme Court wrote to the committee to emphasize that Justice Robinson was a “fair, unbiased” jurist. So it certainly came as a surprise when some of our colleagues on the other side suggested that Justice Robinson opposes religious liberty.

Let me be clear: This is a baseless claim. And it is a claim that was made by distorting Justice Robinson’s record. So let’s set the record straight.

In private practice, she represented a Catholic woman who believed that she had been discriminated against because of her religious views. Remarkably, committee Republicans offered this as proof of Justice Robinson’s hostility toward religious liberty.

In private practice, Justice Robinson was also instrumental in ensuring that a Vermont marriage equality bill included protections desired by religious leaders, such as a provision specifying that clergy would never be “forced to perform a same-sex marriage against their will.”

In 2003, she stated: “I’ve always said that if somebody tried to force the Catholic Church to do a gay wedding, I would represent the Church pro bono.”

So these claims that she is biased have no basis in reality.

Justice Robinson is an outstanding nominee with impeccable credentials. She has a proven even-handed approach to justice. And she would be the first openly LGBTQ woman to serve on a circuit court.

I look forward to supporting both Judge Williams and Justice Robinson, and I urge my colleagues to join me.

The PRESIDING OFFICER. The Senator from New Jersey.

#### EQUAL ACT

Mr. BOOKER. Mr. President, I first want to say before my colleague leaves—I know he has a packed day—when I came to the U.S. Senate, I found a friend, I found a mentor, and I found a leader on issues of justice. The incredible friend I have in the Senator from Illinois—he has been leading on issues from immigration reform and fighting for Dreamers all the way to being the principal leader on the Democratic side for the passage of the First Step Act.

I will never forget that he invited me to the White House in my earliest days with then-President Obama, centering me on that table. I had just gotten here, and he then was talking about these issues—the issues of mass incarceration, the issues of racial discrimination and incarceration. What I rise to talk about really is an issue that my colleague has been dealing with for 35 years. He gave important history.

It was a bipartisan issue 35 years ago when the Senate and House of Rep-

resentatives voted to pass the Anti-Drug Abuse Act of 1986, and the President signed it into law that year. He said, very specifically, one of the things it did was create a massive sentencing disparity between crack and powder cocaine. The bill made it so that five grams of crack cocaine—the example that my colleague gave—carried the same mandatory minimum prison sentence as 500 grams of powder cocaine. That is a 100-to-1 disparity.

What is very powerful to me is what Maya Angelou said. She said:

Do the best you can until you know better. Then when you know better, do better.

And that is the leadership of Senator DICK DURBIN. Understanding that this was a failure, that the policy did not achieve its intended purpose—in fact, it created, as he described, the opposite—DICK DURBIN then led this body towards the long process of making reforms happen.

I was proud that when I got into the Senate, Senator DURBIN told me the story of how we got it from 100 to 1 down to 18 to 1. It wasn’t necessarily based on science. It wasn’t necessarily based on law enforcement evidence. It was a negotiation between Senator DURBIN and another Republican colleague. I love the story because Senator DURBIN pushed for what we are asking for right now. He then fought for 1 to 1. He couldn’t get it but was able to negotiate down from 100 to 1 to 18 to 1.

So what I would like to do is read real quickly the research that looked at cocaine use in the United States from right before this bill was first passed up until 2013. I want to quote:

Despite harsher ADAA penalties for crack compared to powder cocaine, there was no decrease in crack use following implementation of sentencing policies . . . although both powder cocaine use and misuse of prescription drugs (the negative control) decreased.

The report concluded that “these findings suggest that mandatory minimum sentencing may not be an effective method of deterring cocaine use.”

This has been the growing consensus about the War on Drugs on both sides of the aisle. It has been one that has been changing policy.

I am so grateful for Senator DURBIN’s work chipping away at the mistakes that were made.

During the time between when I was in law school in the 1990s and mayor of the largest city in my State in 2006, we saw the prison population explode in this country. In that period, we were building a new prison or jail—about 1 every 10 days. We became the place on the planet Earth with the most incarcerated people. One-third of all the women incarcerated on planet Earth are now in the United States of America; one out of every four incarcerated people, period—in the United States of America.

A growing consensus of bipartisan work led by Senator DURBIN with his wingman from Jersey has been begin-

ning to undermine that, with our partners. So we saw the 2018 passage of the First Step Act, a bill which was made retroactive, and we saw thousands of people liberated from Federal prison who were unjustly sentenced under that 1986 law. The bill Senator DURBIN and I wrote and introduced, the EQUAL Act—this is again Senator DURBIN’s leadership—is now our opportunity to do better.

It must feel good for everyone who understands the good intentions but disastrous results of the crack cocaine-powder cocaine disparity. For all those who understand that we say equal justice under law, but the disproportionate impact it had on Black and Brown communities, further punishing African-American communities in a disproportionate way—in fact, incarcerated Black men at rates that we now have more Black men under criminal supervision in America than all the slaves in 1850. So we are working to do better.

The bill that I picked up to partner with Senator DURBIN on passed the House of Representatives. And Senator DURBIN hinted at this—I would have never expected it—it passed with overwhelming bipartisan support. The bill was championed by Democrats and Republicans. It passed with 149 Republicans voting for it, and now it is over here. The great thing is, our list of cosponsors, which Senator DURBIN read, is growing. I think we will have an announcement over the next few days of other Republicans joining this bill.

We can’t change the past, but we can make for a better future. We can’t undo the disparities that have disproportionately sent African Americans to prison, but we can make for a more equal and more just future.

There is an old saying that “the arc of the moral universe is long, but it bends towards justice.” It was a Martin Luther King quote. But he also said that “change does not roll in on the wheels of inevitability.” It must be carried in on the backs of people who are willing to struggle for it, people who still believe that this Nation can be a symbol to this world about justice and its justice system.

A terrible mistake was made 35 years ago. I was a teenager. There are people right now unjustly incarcerated—an affront to our most sacred ideal in this country, that of liberty. They are there because of this mistake. We have not fixed it. It was grievous. We have not fixed it. It is wrong. This is our moment. It is a moment of redemption to right past wrongs, to set this Nation on a more just course, to bend the arc of the moral universe more towards justice.

I urge my colleagues to support this bill. I urge them to be arc benders. Together, we can make this a more perfect Union.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

## OVER-THE-COUNTER HEARING AIDS

Mr. GRASSLEY. Mr. President, I hear from Iowans all the time about the high cost of hearing aids. The \$5,000 or \$6,000 or even \$10,000 costs are often shocking for seniors who are on fixed incomes.

Thirty-eight million Americans, and, obviously, most of the time adults, have hearing loss. Hearing loss makes it harder to work, harder to socialize, and then easier to become isolated.

In 2016, I began a bipartisan effort with Democratic Senator WARREN of Massachusetts to allow consumers to purchase over-the-counter hearing aids. If you can buy nonprescription reading glasses over the counter, it makes very good sense that you should be able to buy basic, safe hearing aids as well.

When Senator WARREN and I began our efforts, our goal was simple: By making more products more easily available to consumers, this competition will increase and then lead to lower costs.

Despite every special interest, we passed in 2017 a bill that is entitled the "Over-the-Counter Hearing Aid Act." Last week, the FDA, just now, released proposed regulations for over-the-counter hearing aids. This is very welcomed news, but it took the FDA bureaucracy more than 3 years to draft regulations.

Senator WARREN and I pressed both the Trump administration and now the Biden administration to take action, get these regulations out so we can get these over-the-counter hearing aids on the market. I am glad that the FDA finally did its job.

Now the same Iowans who told me about the high cost of hearing aids can comment on the draft regulations. So everybody who wants to make such comments has until January 18 of next year to make comments on the draft regulations.

As long as the FDA bureaucracy acts—and I hope they will be listening—I expect Iowans can purchase over-the-counter hearing aids sometime in early 2022.

This is good news for Iowans and for Americans, generally.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

## BIDEN ADMINISTRATION

Mrs. FISCHER. Mr. President, I rise to discuss where things stand after 9 months under President Biden.

To start, American citizens are still left behind enemy lines in Afghanistan, even though the President said in August that he would get every single American home safe before pulling out our troops.

And the numbers are much worse than the administration has led us to believe. As of this week, the State Department is in touch with more than 400 Americans who are still in Afghanistan. About half of those—at least 196 American citizens—want to leave, but they have been unable to do so.

Leaving even one American citizen who wants to come home at the mercy of the Taliban is a failure in leadership. It should never have been an option. But it has been 2 months, and there are still 196 Americans in Afghanistan who want out. That is unconscionable.

President Biden should have done what was needed to bring every last American home, like he promised he would do in August. That is his No. 1 responsibility as President, to ensure the safety of the American people.

But maybe we shouldn't be surprised, since he hasn't been able to secure our own border. In fact, he doesn't even try to secure our southern border.

Customs and Border Protection reported recently that they apprehended more than 1.7 million migrants attempting to cross our southern border illegally over the span of just 12 months. That is the highest total ever recorded in a single fiscal year. And if border agents encountered 1.7 illegal migrants, imagine how many were able to cross into our country undetected.

CBP encountered nearly 200,000 illegal migrants last month alone, meaning that apprehensions were up by more than 230 percent in September 2021 compared to September of 2020.

If you want to know why we have this crisis at the border, ask the migrants themselves. Many have been very honest about why they risk their lives to travel thousands of miles to the United States. If you ask them why—ask them why they are here—their answer is simple: The President promised to let us in.

We are a nation of immigrants, but we cannot have effective legal immigration if illegal immigration is spiraling out of control.

Illegal immigration means cutting in front of millions of people who have been waiting years to come to the United States the right way. Our message as a nation needs to be that if you want to come here, you have to follow our laws. You cannot just walk across the border.

President Obama said it well a few weeks ago in an interview on ABC News. He said:

And we see tragedy and hardship and families that are desperately trying to get here so that their kids are safe, and they're in some cases fleeing violence or catastrophe. At the same time, we're a nation state. We have borders. The idea that we can just have open borders is something that . . . as a practical matter, is unsustainable.

Well, ABC cut that portion of the interview out. I suppose they can't allow a former President of the United States to disagree with the radical left-wing of their party.

This is all taking place against the backdrop of the highest inflation rate in decades and massive supply chain issues that threaten to cripple our recovering economy. The White House insists these problems are only going to affect the upper class—they are high-class problems. Press Secretary Jen

Psaki said the other day that our supply chain issues are nothing more than "the tragedy of the treadmill that's delayed." What an out-of-touch thing to say. She must be talking about her friends and neighbors here in DC because I don't know many Nebraskans who are spending thousands of dollars on in-home treadmills.

Rising costs and shortages are hurting everyone—most of all, the tens of millions of Americans who are living paycheck to paycheck. The President's shameless "buy now, pay later" policies are forcing hard-working Americans to pay an extra dollar for a gallon of gas while they watch the real value of their retirement accounts slump.

They might not live in Washington or New York or San Francisco, but these are real people. They are small business owners who are wondering if they will be able to get the supplies that they need to meet historic demand this holiday season. They are millions of hard-working Americans who rely on propane to heat their homes who are worried about getting priced out of a warm house this winter. They are families who don't know if they will be able to put food on the table for their kids.

Anyone who thinks most people's first concern is whether the newest Peloton is going to arrive on time, they have no idea what working Americans do to get by every single day.

What has the response to these unprecedented problems been in the media? The Washington Post said it is "time for some new, more realistic expectations." I think people will find that "lower your expectations" is not a very optimistic and it is not a very inspiring slogan for the party in power.

And as dangerous as this wave of inflation is, it is really not like nobody saw it coming. Larry Summers, the liberal economist who directed the National Economic Council under President Obama, has been sounding the alarm for months. He is not the only one. Dozens of leading experts have warned against borrowing trillions of dollars to expand the reach of government when inflation is already running rampant.

But, earlier this year, Democrats in Congress spent nearly \$2 trillion on an entirely partisan basis under the pretense that it was necessary to fight the pandemic. So what is the fix? What is the fix? How is President Biden going to pull America back from the brink of stagflation?

Well, he wants to spend even more of the American people's hard-earned money. The President said in August that the massive, multitrillion-dollar spending spree he wants this Chamber to approve "won't increase inflation. It will take the pressure off of inflation."

Well, he leaves how that might happen to our imagination. In reality, trying to spend our way out of inflation is like trying to put a fire out with lighter fluid; it is absolutely delusional.